

3-18-09

Cofc

Practitioner's Docket No. 2004-2156.CIP

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Mark A. Flannery  
Serial No.: 10/820,358  
Filed: April 7, 2004  
For: Mattress Hugging Bed Rail  
Examiner: SANTOS, Robert G.  
Group No.: 3673  
Confirmation No.: 8169

**ATTN: Certificate of Correction Branch**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**Certificate**  
**MAR 20 2009**  
**of Correction**

**Certificate Of Mailing Via Express Mail**

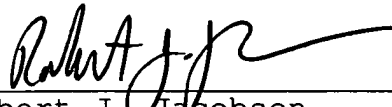
Sir:

I hereby certify that the following papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on March 17, 2009 and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, under Express Mail Post Office to Addressee Label No. EH-200-743-471-US:

1. This Certificate of Mailing via Express Mail dated March 17, 2009 (one page);
2. Respective Request for Expedited Issuance of Certificate of Correction dated March 17, 2009 (three pages);
3. Proposed Certificate of Correction (one page);
4. Page 32 of applicant's specification filed on April 7, 2004 (one page);
5. Pages 014/025 to 015/025 having application claim 17 of applicant's Amendment and Remarks of May 1, 2006 (two pages); and
6. Postcard receipt.

Respectfully submitted,

Date: 3-17-09

  
Robert J. Jacobson  
Reg. No. 32,419

Tel. No.: (651) 699-7900  
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650 Brimhall Street South  
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**Respective Request for Expedited Issuance  
of Certificate of Correction**

This is a respective request for an expedited issuance of a Certificate of Correction under 37 CFR § 1.322 and MPEP 1480.01.

A. MPEP 1480.01

MPEP 1480.01 provides as follows:

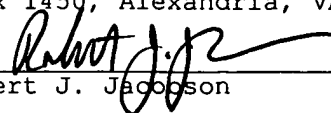
**1480.01 Expedited Issuance of Certificates of  
Correction - Error Attributable to Office [R-2]**

In an effort to reduce the overall time required in processing and granting Certificate of Correction requests, the Office will expedite processing and granting of patentee requests where such requests are accompanied by evidence to show that the error is attributable solely to the Office (i.e., requests filed pursuant to 37 CFR 1.322 only).

The following requirements must be met for consideration of expedited issuance of Certificates of Correction:

The text of the correction requested should be submitted on a Certificate of Correction form, PTO/SB/44 (also referred to as PTO 1050). Submission of this form in duplicate is not necessary. The location of the error in the

I hereby certify that this correspondence and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date March 17, 2009 in an envelope as "Express Mail Post Office to Addressee" Mailing Number EH-200-743-471-US addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Robert J. Jacobson

MAR 20 2009

printed patent should be identified on form PTO/SB/44 by column and line number or claim and line number. See also MPEP § 1485.

Where the correction requested was incurred through the fault of the Office, and the matter is clearly disclosed in the records of the Office, and is accompanied by documentation that unequivocally supports the patentee's assertion(s), a Certificate of Correction will be expeditiously issued. Such supporting documentation can consist of relevant photocopied receipts, manuscript pages, correspondence dated and received by the Office, photocopies of Examiners' responses regarding entry of amendments, or any other validation that supports the patentee's request so that the request can be processed without the patent file.

Where only part of a request can be approved, the appropriate modifications will be made on the form PTO/SB/44 and the patentee then notified by mail. Further consideration will be given to initially rejected requests upon a request for reconsideration. In this instance, however, or in the case where it is determined that the Office was not responsible for the error(s) cited by the patentee, accelerated issuance of Certificates of Correction cannot be anticipated (although the Office will make every effort to process the request expeditiously).

As in the case of a request for a Certificate of Correction, a Request for Expedited Issuance of Certificate of Correction should be addressed to:

ATTN: Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

#### B. Documentation that unequivocally supports the patentee's assertions

The basis for the attached proposed Certificate Of Correction is found in the following papers that are attached:

- 1) True and accurate photocopy of page 32 of applicant's specification filed on April 7, 2004 (printed off PAIR); and
- 2) True and accurate photocopy of pages 014/025 to 015/025 having application claim 17 (patent claim 16) of applicant's "Amendment and Remarks" of May 1, 2006 (printed off PAIR).

For the first listed correction on the proposed Certificate of Correction, the attention of the Certificate

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of Correction branch is drawn to line 27, page 32 of the applicant's specification filed on April 7, 2004.

For the second listed correction on the proposed Certificate of Correction, the attention of the Certificate of Correction branch is drawn to line 4 of paragraph "e)" of application claim 27. Application claim 27 begins on page 014/025 and then continues over to page 014/025 where line 4 of paragraph "e)" is found.

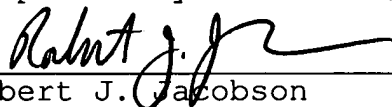
Thus, it is respectfully submitted that the above identified mistakes were incurred through the fault of the Office, which mistakes are clearly disclosed in the records of the Office.

Expedited issuance of the enclosed proposed Certificate of Correction would be very much appreciated.

Date: 3-17-09

Tel. No.: (651) 699-7900  
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Respectfully submitted,

  
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MAR 20 2009

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 7,137,158 B2  
APPLICATION NO.: 10/820,358  
ISSUE DATE : Nov. 21, 2006  
INVENTOR(S) : Mark A. Flannery and Nathan A. Dusheck

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 15, line 61

"216 Cor 218)" should be --216 (or 218)--.

Column 25, Claim 16

In line 2, "Wherein" should be --wherein--.

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

Robert J. Jacobson, P.A.  
650 Brimhall Street South  
Saint Paul, Minnesota 55116-1511

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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Figure 12 shows the bed rail 200 in the process of being folded to a compact configuration. Leg portion 202 and rail portion 204 have been swung relatively to each other by the operation of connections 226 and 228 such that  
5 base leg sections 250 are disposed generally parallel to side tubes 216 and 218. From the position shown in Figure 12, lower tubes 212, 214 are disconnected from the connections 226, 228 and the lower tubes 212, 214 are slid out of the lower wall section 380. Then the hinge  
10 connection 220 is squeezed so as to operate the unlocking mechanism 342. Indicia 450 is provided on the upper wall section 382 to indicate the location and general structure of the hinge mechanism 220 and unlocking mechanism 342. An arrow indicia 452 is provided on the upper wall section 382  
15 below indicia 450 and points at indicia 450 to indicate the direction the unlocking mechanism 342 slides to unlock the hinge mechanism 3220. Upon an unlocking of the upper tubes 208, 210 relative to each other, the outer ends of the bed rail 200 can be swung upwardly with the base leg sections  
20 250 to the compact storage configuration shown in Figure 13.

In a stored configuration as shown in Figure 13, bed rail 200 with each of the counter attachments 404 and 420 can fit in a nylon drawstring bag where the bag measures about seven inches in diameter and about 30 inches in depth.

25 Figure 18 shows the preferred embodiment for lower connection 226 (and 228). In this preferred embodiment, side tube 216 (or 218) is preferably set at an acute angle A relative to leg portion 202, including leg base section 250. In other words, the following features are aligned on an  
30 axis B: side tube 216 (or 218), slots 288, slots 270, pin 290, walls 242 and 244. The following features are aligned on an axis C: female receptor 246, base leg section 250, and counter attachments 404 and 420 (excluding the counters

g) a first quick connect between said tubing and said side portion of the frame such that the bed rail can be readily set up for operation and readily broken down for storage; and

h) a second quick connect between said tubing and said side portion of the frame, with said second quick connect being connectable to different portions of said side portion along a height of said side portion such that said tubing is adjustable in height for sleeping surfaces of different heights.

26. (canceled).

27. (currently amended) A bed rail adapted for engagement to a bed having a first side, a second side, and a sleeping surface, wherein the bed rail comprises:

a) a leg portion;

b) a rail portion engaged to the leg portion and confronting the first side of the bed, wherein the rail portion is swingably engaged to the leg portion such that the rail portion and leg portion may be swung together to lend a compact form to the bed rail, wherein the rail portion includes a frame and ~~a wall~~ sheeting engaged to the frame, with the frame including side portions, with the frame further including an upper portion extending to and between the side portions and a lower portion extending to and between the side portions;

c) wherein the rail portion extends from the leg portion to and beyond the sleeping surface to prevent a person on the sleeping surface from rolling off the bed;

d) wherein the leg portion extends from the rail portion toward the second side of the bed; and

(18450.boc) (Amendment and Remarks--page 11 of 22)

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e) wherein the ~~wall~~ frame further comprises a rigid component comprising tubing running to and between the side portions of the frame and being disposed between the upper and lower portions, wherein the sleeping surface is disposed generally in a plane, wherein said rigid component ~~lies~~ is disposed in one of said plane and relatively close to said plane such that the ~~wall~~ frame is made rigid where a planar gap may otherwise form; and

f) wherein the frame includes a quick connect between said rigid component and said side portion of the frame such that said rigid component can be readily set up and readily broken down.

28. (currently amended) A bed rail adapted for engagement to a bed having a first side, a second side, and a sleeping surface defining a plane, wherein the bed rail comprises:

a) a leg portion;

b) a rail portion engaged to the leg portion and confronting the first side of the bed, wherein the rail portion includes a frame and ~~a wall~~ sheeting engaged to the frame, with the frame including side portions, with the frame further including an upper portion extending to and between the side portions and a lower portion extending to and between the side portions;

c) wherein the rail portion extends from the leg portion to and beyond the sleeping surface to prevent a person on the sleeping surface from rolling off the bed;

d) wherein the leg portion extends from the rail portion toward the second side of the bed;

e) wherein the ~~wall is rigid~~ frame further includes tubing between the upper and lower portions, with the tubing extending to and between the side portions and being